Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

December 12, 2013

TO: Mitch Glaser, AICP, Hearing Officer

FROM: Anthony Curzi AC
Zoning Permits North Section

SUBJECT: Project No. R2010-00808-(5)
Modification to Conditional Use Permit No. 201000071
HO Meeting: December 17, 2013
Agenda Item: 13

Enclosed please find revised language to the Findings, updated Conditions, and the Environmental Impact Report (EIR) addendum.

SMT:amc
12/12/2012

Attachments: Findings, Conditions, Environmental Addendum.

DRAFT FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2010-00808-(5)
MODIFICATION TO CONDITIONAL USE PERMIT NO. 201000071

1. **ENTITLEMENT REQUESTED.** The applicant, SunPower Corporation, Systems, LLC, is requesting a minor modification to Conditional Use Permit ("CUP") No. 201000071 to modify conditions related to the approved Exhibit "A" and off-site transport.

2. **HEARING DATE.** December 17, 2013

3. **PROCEEDINGS BEFORE THE HEARING OFFICER.**

4. **PROJECT DESCRIPTION.** The applicant proposes a modification of the approved Exhibit "A" to correctly depict grading amounts. Sheet C123 of the approved Exhibit "A" listed grading in the following amounts: 19,000 cubic yards of cut and 25,000 cubic yards of fill with 6,000 cubic yards of borrow. The revised amounts are as follows: 130,300 cubic yards of cut, 41,700 cubic yards of fill, and 88,600 cubic yards of export. Also proposed is the off-site transport of soil.

5. **LOCATION.** The subject property is located between Avenue A and Avenue B and between 130th Street West and 160th Street West, at the Kern County boundary, within the Antelope Valley West Zoned District and in the Fifth Supervisorial District. The Assessor's Parcel Numbers are 3258-001-001, 3258-001-024, 3258-001-025, 3258-001-028, 3258-001-029, 3258-001-030, 3258-001-031, 3258-001-038, 3258-001-040, 3261-001-002, 3261-001-003, and 3261-001-004.

6. **SITE PLAN DESCRIPTION.** The site plan depicts the solar array and appurtenant facilities. Sheet C123, which depicts the grading quantities, is revised to show the correct grading amounts of 130,300 cubic yards of cut and 41,700 cubic yards of fill with 88,600 cubic yards of export. The new grading amounts do not result in any other changes to the approved Exhibit "A", such as size or location of retention basins or internal roads. Sheet C1405 is also revised to show updated details for retention basins.

7. **EXISTING ZONING.** The subject site is zoned A-2-5 (Heavy Agricultural – Five Acre Minimum Required Lot Area).
Surrounding zoning is as follows:
North: A-2-5
South: A-2-5
East: A-2-5
West: A-2-5

8. **EXISTING LAND USES.** The subject site contains vacant land previously used for agricultural purposes.

Surrounding land uses within 1000 feet are as follows:
North: Vacant land, and photovoltaic solar electric generating facility.
South: Vacant land
East: Vacant land
West: Vacant land

9. **PREVIOUS CASES / ZONING HISTORY.** CUP 201000071, approved on October 19, 2011 by the Los Angeles County ("County") Regional Planning Commission ("RPC"), authorized the construction, operation, and maintenance of a photovoltaic solar electricity generating plant on 1,238 acres of a total 4,782 acres, of which the remainder is located in Kern County. A Final Environmental Impact Report ("EIR") determined that there would be significant and unavoidable impacts with respect to aesthetics, at both a project and cumulative level; prime farmland, at both a project and cumulative level; air quality at a cumulative level, and biological resources at a cumulative level. The Findings of Fact, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program were also adopted by the RPC on October 19, 2011. A previous Modification to the CUP allowing an increase in water consumption during the 36-month construction period to 330 acre-feet was approved by the Hearing Officer on December 18, 2012.

10. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The previously approved project for the solar energy facility was found to be consistent with both the Los Angeles County General Plan and the Antelope Valley Areawide General Plan ("Area Plan"). The subject site is within the N1 (Non-Urban 1) land use category of the Area Plan. The proposed modification will not change this land use and only allows an increase in the amount of grading, consistent with the EIR for the project. Allowing the revised grading amounts will allow the permittee to construct required retention basins, which will help keep water from flowing off the project site.

11. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** The proposed modification will not change the zoning of the subject site, which is A-2-5. Electricity generating plants are permitted in the A-2-5 zone pursuant to Section 22.24.150 with the issuance of a CUP. The approved facility will comply with all zoning and development standards, and the proposed modification will not affect these standards or the compliance therewith. The off-site transport of soils will be in compliance with the zoning ordinance and development standards as well.

12. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The revised grading amounts are mostly necessary to allow for the construction of retention basins as required by the County Department of Public Works ("Public Works"). The additional grading is in line with amounts analyzed in the project's certified EIR and such changes do not fundamentally change the scope and layout of the project or impacts from it.

13. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.** Public Works submitted additional conditions for the project. The County Departments of Fire, Parks and Recreation, and Health have all reviewed and recommended for approval the proposed modification to the CUP.

14. **OTHER AGENCY COMMENTS AND RECOMMENDATIONS.** No comments were received.

15. **LEGAL NOTIFICATION AND PUBLIC OUTREACH.** Pursuant to the provisions of Section 22.56.1620 of the County Code, the community was appropriately notified of the application by mail, newspaper and property posting. The public notice indicated that any individual opposed to the modification may submit written opposition to the Director within a 15-day comment period, which ended on December 3, 2013.

16. **PUBLIC COMMENTS.** No comments during the 15-day comment period, which ended on December 3, 2013, were received.

MODIFICATION TO CONDITIONAL USE PERMIT SPECIFIC FINDINGS

17. The proposed modification to CUP 201000071 Exhibit "A" will not change the land use for the site as approved. Such land use, an electricity generating plant, is consistent with the adopted general plan for the area

    Therefore, the proposed use will be consistent with the adopted general plan for the area.

18. No protests were received during the specified protest period pursuant to Section 22.56.1630.A of the County Code, which was by December 2, 2013.

    Therefore, not more than one protest was received by December 2, 2013, and staff may recommend approval to the Hearing Officer of the modification.

19. The proposed modification of the Exhibit "A" will not change the overall scope of the previously approved project and will not alter the means by which the burden of proof was met.

    Therefore, the requested use at the location proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

20. The proposed modification to the Exhibit "A" will not change the size or shape of the property or any physical feature of the approved solar project. The request is

to correct a discrepancy regarding grading amounts. The original Exhibit "A" lists 50,000 cubic yards of grading. The EIR for the approved project, however, analyzed grading amounts in excess of what is currently being proposed, which was 350,000 cubic yards. By contrast, the proposed grading equates to 172,000 cubic yards for Los Angeles County and 96,000 cubic yards for Kern County or 268,000 cubic yards total.

Therefore, the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area.

21. The proposed modification of the Exhibit "A" and off-site transport will in no way change existing or proposed highway or street layouts, widths, or improvements. All highways and streets in the vicinity are adequate to carry the kind and quantity of pedestrian, bicycle, and vehicle traffic generated by the project, including additional truck trips that would be generated by the additional export of soil.

    Therefore, the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of pedestrian, bicycle, and vehicle traffic such use would generate, and by other public or private service facilities as are required.

22. The revisions to grading amounts are necessary to accommodate required retention basins. The EIR for the original project analyzed grading in greater amounts than what is currently proposed.

    Therefore, the modified CUP will not materially deviate from the terms and conditions imposed in the previously approved CUP.

23. The proposed modification to the CUP is necessary to allow the project to operate as intended in the original approval. Due to a discrepancy, however, the grading amounts have to be revised to account for required retention basins on the project site. The project's EIR analyzed grading amounts in excess of what is being proposed by the modification and the off-site transport. County Departments of Regional Planning and Public Works have added additional conditions that will ensure that the project with the modification and off-site transport will operate in a compatible manner as originally contemplated.

    Therefore, the approval of the application is necessary to allow the reasonable operation and use granted in the CUP.

ENVIRONMENTAL DETERMINATION

23. The project's impacts were fully analyzed in an EIR, and an addendum to the final environmental impact report was prepared that substantiates that no new impacts

from the proposed modification will occur, including impacts to air quality, biological resources, water resources and water use, and cultural resources.

Therefore, the Hearing Officer, acting in its role as responsible agency for the project, certifies that the Final EIR Addendum has been completed in compliance with the California Environmental Quality Act and the State and County guidelines related thereto and reflects the independent judgment and analysis of the County.

24. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits North Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

A. That the proposed use will be consistent with the adopted general plan for the area; and

B. That the burden of proof for the conditional use permit as modified has been satisfied pursuant to Section 22.56.040:

   a. Not more than one protest was received during the specified protest period pursuant to Section 22.56.1630.A;

   b. That the requested use at the location proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare;

   c. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area;

   d. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of pedestrian, bicycle, and vehicle traffic such use would generate, and by other public or private service facilities as are required; and

C. That the modified CUP will not materially deviate from the terms and conditions imposed in the previously approved CUP; and

D. That the approval of the application is necessary to allow the reasonable operation and use granted in the CUP.

THEREFORE, the information submitted by the applicant and presented at the public meeting substantiates the required findings for Modification to CUP No. 201000071 as set forth in Section 22.56.1600 and 22.56.090 of the County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer, acting in its role as responsible agency for the project, certifies that the Final Environmental Impact Report Addendum has been completed in compliance with the California Environmental Quality Act and the State and County guidelines related thereto and reflects the independent judgment and analysis of the County.

2. In view of the findings of fact and conclusions presented above, the modification to the Exhibit "A" is approved subject to the attached conditions.

ACTION DATE: December 17, 2013

SMT:amc
December 17, 2013

c: Hearing Officer, Zoning Enforcement, Building and Safety

DRAFT ADDITIONAL CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2010-00808-(5)
MODIFICATION TO CONDITIONAL USE PERMIT NO. 201000071

The following are additional conditions that, together with previous approvals, comprise the revised conditions of approval for Conditional Use Permit No. 201000071.

1. The permittee shall comply with the Exhibit "A" dated October 17, 2013.

2. The permittee shall utilize the haul routes identified in the Exhibit "A". In the event the permittee desires to use other haul routes, the permittee shall submit three (3) copies of the proposed haul route(s) as a Revised Exhibit "A" to the Director for review and approval for each off-site transport exceeding 10,000 cubic yards prior to such off-site transport. The plans must depict the amount of export soil and haul route(s). All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

3. Grading shall be permitted as approved on the approved Exhibit "A". Disk and roll, scraping or similar ground disturbance or site preparation activities that affect the surface of the soil, shall be prohibited.

ADDENDUM NO. 3TO THE ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE ANTELOPE VALLEY SOLAR PROJECT

1.0 INTRODUCTION

This Addendum No. 3to the Environmental Impact Report (EIR) for the Antelope Valley Solar Project (AVSP) has been prepared by Los Angeles County to assess a proposed modification to Conditional Use Permit No. 201000071, Exhibit A (Site Plan)to revise the total permissible grading quantity in Los Angeles County from 50,000 cubic yards to approximately 172,000 cubic yards(130,273 cubic yards of cut, 41,669 cubic yards of fill, and 88,604 cubic yards of exported grading material)and to update the schematics for infiltration basins consistent with Department of Public Works' requirements. The majority of the grading (75%) is needed for the construction of water infiltration basins in order to manage stormwater runoff consistent with County requirements. The proposed modification is requested in order to reviseoutdated grading calculations that were included in the January 3, 2013 Site Plan; however, the modification does not change the location or size of the approved water infiltration basins or any other design feature of the project. Moreover, when the proposed grading quantity is added to the grading quantity in Kern County (96,000 cubic yards), the total grading quantity is approximately 268,000 cubic yards, which is below the amount of earthwork of 350,000 cubic yards that was analyzed in the Final EIR for the AVSP.

2.0 BACKGROUND

The AVSP consists of the construction and operation of a 650 megawatts (MW) alternating current (AC) photovoltaic (PV) generating facility located on approximately 4,642 acres in Los Angeles and Kern Counties.The Los Angeles County portion includes 1,238 acres. The Kern County portion includes approximately 3,404 acres, including two operations and maintenance buildings. Major components of the AVSP include installation of solar PV panels mounted on trackers; steel support structures and related tracker motors; combiners, electrical inverters and transformers; electrical substations with switchyards; overhead and buried electrical conduit, transmission and collection lines; a septic system and leach field; water infiltration basins; on-site access roads; security fencing; and temporary construction laydown areas, equipment, and structures.

Kern County is the lead agency for the project pursuant to the California Environmental Quality Act (CEQA). Los Angeles County (County) is a responsible agency under CEQA, with permitting authority over that portion of the project that is located within the County. As lead agency, Kern County analyzed the environmental impacts of the project in the Final EIR (SCH No. 2010031022), which was certified by Kern County on August 2, 2011. Also, on August 2, 2011, the Kern County Board of Supervisors approved the portion of the project located within Kern County.[1]

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[1] On March 13, 2012, the Kern County Board of Supervisors approved changes to the project's boundaries in Kern County. At that time, the Kern County Board of Supervisors also approved an Addendum to the Final EIR.

On October 19, 2011, the Los Angeles County Regional Planning Commission approved Conditional Use Permit No. 201000071 (CUP) for the portion of the project located within Los Angeles County. The Planning Commission also reviewed and considered the Final EIR and found that it reflected the independent judgment of the County.The Planning Commission also adopted an Addendum to the Final EIR, CEQA Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring Program.

Pursuant to the CUP, the applicant was required to submit a site plan, providing detailed information regarding project development features, to the Department of Regional Planning (DRP), the Department of Public Works (DPW), and the Fire Departmentfor approval. (See CUP, DPW Condition Nos. 1, 2, 5; CUP, Fire Department W&WTR Condition No. 1.) After consulting with the applicable departments, the applicant submitted a proposed site plan to DRPfor the Los Angeles County portion of the project in November 2012, which was approved by DRP in January 2013. The Site Plan shows the location and dimensions of project development features and provides a description of the anticipated earthwork volume. Among other things, the Site Plan states that the estimated amount of earthwork volume in Los Angeles County would be 50,000 cubic yards (25,000 cubic yards cut and 25,000 cubic yards fill).

After the Site Plan was approved, on March 12, 2013, the Department of Public Works approved the applicant's drainage concept/hydrology study for the Los Angeles County portion of the project. The applicant now states that, based on these updated hydrology and stormwater management plans, its grading calculations need to be updated and that it actually needs approximately 172,000 cubic yards of grading to construct the approved development features, including water infiltration basins. The applicant has requested that the Site Plan be revised to authorize 130,273 cubic yards of cut and 41,669 cubic yards of fill (88,604 cubic yards would be exported off-site). When the proposed grading quantity in Los Angeles County is added to the grading quantity in Kern County (96,000 cubic yards), the total grading quantity is approximately 268,000 cubic yards, which is below the amount of earthwork that was analyzed in the Final EIR for the AVSP.

A responsible agency's role under CEQA is more limited than that of a lead agency, and the responsible agency generally must rely on the information provided in the lead agency's EIR. Section 15096(a) of the CEQA Guidelines provides that a "responsible agency complies with CEQA by considering the EIR or negative declaration prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved." A responsible agency may prepare a subsequent EIR only if the triggering events specified in CEQA Guidelines section 15162 have occurred. Section 15162 requires the preparation of a subsequent EIR if the agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative

declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15164 requires a responsible agency to prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred. An addendum need not be circulated for public review. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in the Addendum, the agency's findings on the project, or elsewhere in the record.

3.0 FINDINGS

None of the conditions described above under Section 15162 of the CEQA Guidelines requiring the preparation of a subsequent EIR have occurred.No substantial changes have been proposed for the project and it is not expected that the proposed revisions to the Site Planas part of the CUP modificationwould result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In addition, no substantial changes have occurred with respect to the circumstances under which the project will be undertaken. These findings are supported by information in the record, as well as by the following factors.

- The proposed modification to the Site Plan to allow additional grading does not involve substantial changes to the project because the proposal does not modify any of the development features on the previously approved Site Plan. In particular, the majority of grading (75%) is needed to construct water infiltration basins in order to manage stormwater runoff. While the proposed modification would increase the volume of grading, it does not change the location or size of the approved water

infiltration basins or any other development feature of the project, as set forth in the Site Plan. In addition, the proposed grading is consistent with the development features described in the Final EIR. Among other things,the Final EIR specifically contemplated that the applicant would construct drainage control features pursuant to Los Angeles County standards. (See Final EIR, Appendix J, Section 4.4.)

- The Final EIR stated: "Although the amount of surface runoff on the project site would not substantially change and would be minimized through implementation of BMPs that are included in the SWPPP, runoff patterns and concentrations could be altered by grading activities associated with the proposed project. The Kern County Engineering, Surveying, and Permit Services Department and Los Angeles County Department of Public Works would review the proposed project's design of access roads and solar panel sites for consistency with Kern and Los Angeles County grading and flood control requirements. . . Compliance with the ordinances and review by the respective County departments would limit the alteration of drainage patterns in such a manner that would cause flooding on- or off-site." (Final EIR at 4.7-30.)Additionally, the Final EIR stated that the project would be required to prepare and submit a drainage plan in accordance with Los Angeles County stormwater requirements, including the Low Impact Development (LID) Standards Manual. (Final EIR at 4.7-31.) Accordingly, when the Los Angeles County Regional Planning Commission approved the project on October 19, 2011, it required, among other things, that the applicant submit a grading plan for approval and that applicant comply with the "latest drainage concept/hydrology/SUSMP/Low-Impact Development (LID) plan by the Public Works' Land Development Division, Storm Drain and Hydrology Section." (CUP, DPW Condition Nos. 2.2 and 2.3.)

- Consistent with the above requirements, the applicant submitted drainage concepts and hydrology studies to the Department of Public Works for review and approval. On March 12, 2013, the Department of Public Works approved the "Drainage Concept/Hydrology Study/SUSMP/LID" for the proposed project. This study describes the project's pre- and post-development conditions in order to evaluatepotential stormwater impacts and necessary mitigation. According to the study, "Retention basins [would] be constructed at several locations within the project site to accommodate the greater of the volumetric difference between existing and proposed conditions or LID requirements." The study concludes that the proposed infiltration basins would provide sufficient retention volume such that, during the 25-year storm event, there would be no significant change in overall runoff volume or peak discharge. Thus, consistent with the Final EIR, the applicant is proposing to construct drainage control features that would manage stormwater discharges in compliance with applicable County requirements. Notably, the size and location of the proposed infiltration basins are accurately depicted in the Site Plan that was approved by DRP in January 2013. The applicant seeks to update the

Site Plan's grading calculations to conform to the approved drainage concept/hydrology study.

- The proposed modification to the Site Plan to allow additional grading does not involve substantial changes to the project because the proposal does not change the total volume of grading that was evaluated in the Final EIR. In particular, when the proposed grading quantity for Los Angeles County(172,000 cubic yards) is added to the estimated quantity of grading in Kern County (96,000 cubic yards), the total volume of grading is approximately 268,000 cubic yards. This amount of grading is below the volume of total grading within Los Angles and Kern Counties (350,000 cubic yards) that was estimated in the Final EIR. (SeeFinal EIR, Appendix D, Section 2.) Furthermore, the Final EIR analyzed the impacts of this grading across all environmental resource areas and, based on this analysis, the County imposed appropriate mitigation measures to address the project's potential impacts.

    - Air Quality. The Final EIR included an air quality impact report that evaluated the potential air quality impacts of the project per CEQA requirements. (Final EIR, Appendix D.) The purpose of the air quality impact report was to describe the existing regional air quality of the project area; the applicable federal, state, and local air quality regulations; the potential regional and local air quality impacts associated with the project; and any measures needed to mitigate air quality impacts or minimize pollutant emissions. The report focused on criteria pollutant emissions, i.e., those pollutants for which ambient air quality standards have been established to protect human health and the environment.

    - The air quality impact report assumed that construction of the project would generate emissions from construction vehicles and equipment exhaust, and emissions of dust and particulates from soil disturbance and construction vehicle travel on unpaved surfaces. In particular, the report assumed that the project would use construction vehicles for earthmoving activities, such as to install roads or reduce extreme elevation changes, and that the project would involve the movement of up to 350,000 cubic yards of soil. These assumptions were used to calculate the annual and maximum daily construction emissions that would be generated by the project. (Final EIR, Appendix D at 54-55.) A discussion of construction and operational emissions, potentially significant impacts and mitigation measures (if any), and measures to avoid or minimize emissions was included in the report. (See Final EIR at 4.3-30 through 4.3-42, Appendix D at 54-63.)

    - Notably, when the County approved the AVSP on October 19, 2011, it specifically adopted mitigation measures to address the air quality impacts of the project. Among the mitigation measures adopted were measures specifically designed to reduce air quality impacts associated with the grading activities. For example, "[a]ll soil excavated or graded [must] be sufficiently watered to prevent excessive dust" and "[a]ll clearing, grading,

earth moving, and excavation activities [must] cease during periods of winds greater than 20 miles per hour." (See Mitigation Measure 4.3-1LA.) These and other measures demonstrate that the project's grading activities were taken into consideration and that the County imposed appropriate mitigation measures to address the project's potential impacts.

- While the Final EIR did not delineate the amount of grading that would occur to the north or to the south of Avenue A (the dividing line between Los Angeles and Kern Counties), the Final EIR was nevertheless able to estimate construction emission and determine that the proposed project would not exceed applicable thresholds of significance. (Final EIR at 4.3-30 through 4.3-37.) In order to ensure that the project would not exceed applicable thresholds once the project's final construction plans were developed, the County adopted mitigation measures which require that the applicant implement certain protective measures and achieve specific performance standards. For example, Mitigation Measure 4.3-1LA requires that the applicant construct and operate the project in compliance with applicable rules and regulations set forth by the Antelope Valley Air Quality Management District (AVAQMD). As noted above, thismitigation measure also requires that the applicant implement specific dust control measures, such as watering to prevent excessive dust. In addition, Mitigation Measure 4.3-3LA states that, prior to issuance of the grading permit, "the project proponent/engineering, procurement, and construction (EPC) contractor shall be required to demonstrate that the final construction plans will not result in exceedances of applicable [AVAQMD] air emission significance thresholds . . . to the satisfaction of AVAQMD and the Los Angeles County Department of Regional Planning." The project applicant would be required to continue to comply with these requirements, thus ensuring that the project will not exceed applicable air emission significance thresholds. No additional mitigation is required.

- Water Resources and Water Use. The Final EIR also analyzed the project's impacts on water resources and water use. As part of this analysis, the Final EIR specifically recognized that the project would necessitate the use of water during construction for dust mitigation purposes and that the project's grading activities could alter existing drainage patterns.[2] (Final EIR at 4.7-25 through 4.7-33, Appendix J at

[2]The CUP originally provided that the Project could use no more than 105 acre-feet of water during the Project's 36-month construction period. (CUP Condition No. 28.) After the CUP was approved, however, the project applicant requested that the County approve a minor modification to the CUP to increase the permitted water use to 330 acre-feet during the project's construction period. The change was requested to ensure that the project would have sufficient water and adequate flexibility to implement dust control mitigation requirements. Although the project applicant determined that additional water was necessary based on its recent experiences at other sites, the estimated water use was based on the same 350,000 cubic yards of earthmoving that was evaluated in the Final EIR. On December 18, 2012, a County Hearing Officer approved the minor modification request. The applicant is not seeking additional water for fugitive dust control and the applicant's proposed water use is consistent with the amount previously analyzed.

35-39.) The Final EIR concluded that the impacts from these activities would not be significant based, among other things, on NPDES permit requirements for construction activities (which requires the preparation of a stormwater pollution prevention plan) and the fact that the amount of water used for dust suppression would be de minimis when compared to existing agricultural water use.

- Nevertheless, to address these and other potential impacts, the County imposed certain conditions of approval. For example, as discussed above, prior to grading plan approval, the CUP requires that the project applicant comply with low impact development (LID) requirements in accordance with the LID Standards Manual. (CUP, DPW Condition No. 4.3.) Thus, the environmental analysis and conditions of approval demonstrate that the County carefully considered the project's grading impacts when it approved the project.

- Biological and Cultural Resources. Grading and ground disturbing activities were also considered in the Final EIR's evaluation of the project's impacts on biological and cultural resources. (See Final EIR at 4.4-44 through 4.4-62 and 4.5-22 through 4.5-31; see also Final EIR, Appendices E, F, G, H, and I.) For example, the EIR noted that grading and removal of vegetation could result in direct losses of raptor nests, eggs, or nestlings. The EIR even considered the indirect impacts on vegetation communities from grading and construction activities. To address the project's potentially significant impacts from grading and other ground disturbing activities, the EIR proposed numerous mitigation measures, including Mitigation Measures 4.4-3LA, 4.4-4LA, 4.4-5LA, 4.4-8LA, 4.5-2LA, 4.5-6LA, and 4.5-7LA. (See Final EIR at 4.4-53 through 4.4-57, 4.5-24 through 4.5-29.)These measures were flexibly designed to minimize or avoid environmental impacts regardless of the precise location of the site-disturbing activities. For example, Mitigation Measure 4.4-3LA requires, prior to the issuance of a grading or building permit, that a qualified biologist conduct a preconstruction migratory bird and raptor nesting survey for those portions of the site that would be disturbed. If an active nest is confirmed by the biologist, no construction activities shall occur within at least 300 feet of the nesting site until the end of the breeding season. Similarly, Mitigation Measure 4.4-5LA requires, prior to the issuance of a grading or building permit, that a qualified biologist conduct focused preconstruction surveys for potential American badger and desert kit fox dens in areas of suitable habitat that would be disturbed by the project. If potential dens are observed, protective measures must be implemented. All of the mitigation measures are similarly designed to avoid environmental impacts. The County approved these measures as CUP conditions of approval, demonstrating that it considered the project's grading impacts when it approved the project. The requested modification to the Site Plan does not alter the prior analysis because the proposed modification does not change the

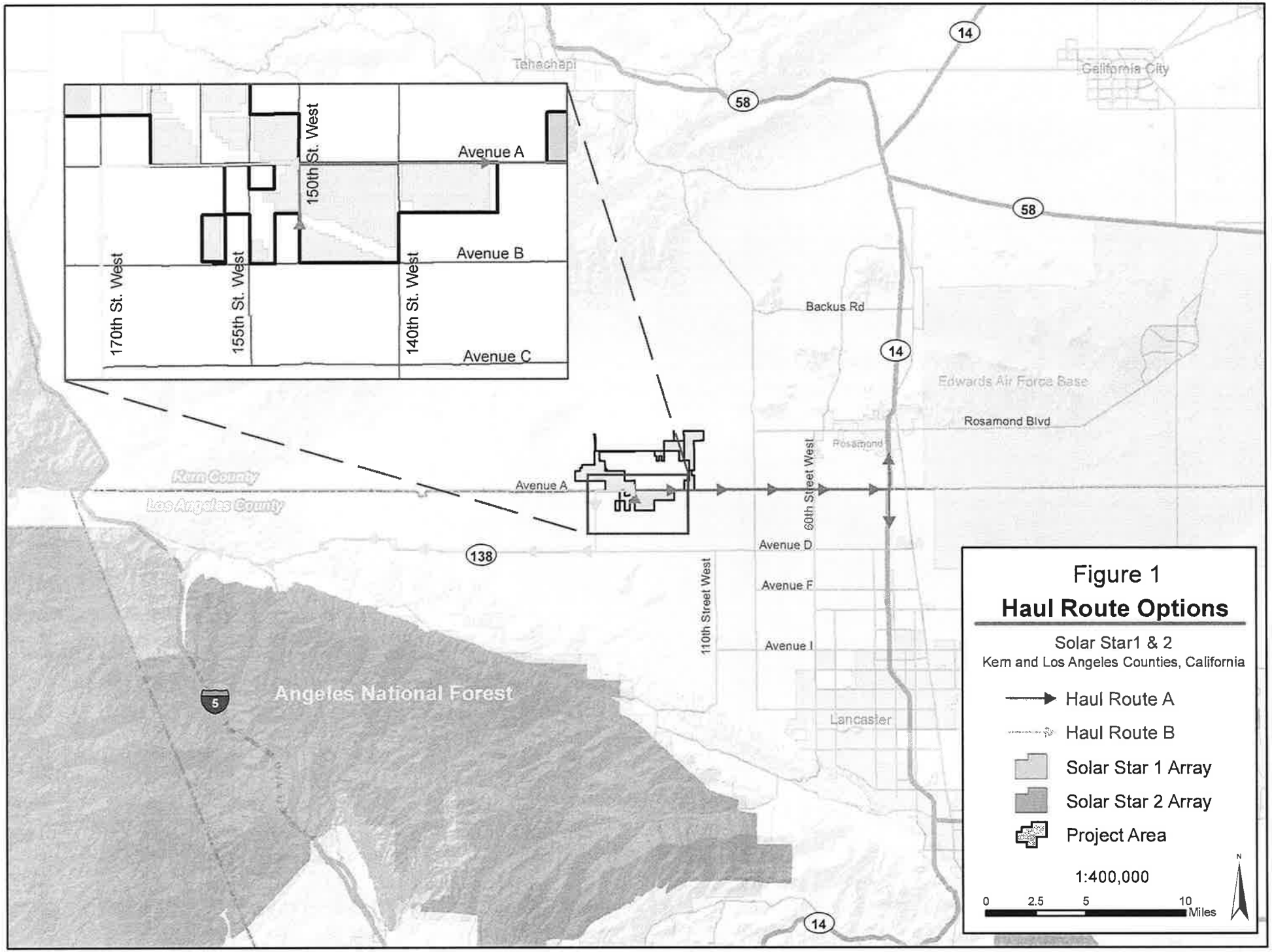
location or size of the approved infiltration basins or any other design feature of the project.

- Other Environmental Resources. The Final EIR also described the potential impacts of grading and ground disturbing activities on other environmental resources, including aesthetics, agricultural resources, land use, and hazardous substances. Accordingly, the EIR proposed, and the County approved, a host of mitigation measures to address those potential impacts. Because the requested modification to the Site Plan would not change the location or size of the approved infiltration basins or any other design feature of the project, the requested modification would not alter the project in any way that is material to aesthetics, agricultural resources or land use. While an increase in the amount of grading would be relevant to the potential upset of hazardous substances, the project applicant has prepared,and the County has approved, a soil management plan pursuant to Mitigation Measure 4.9-4LA. The plan sets forth construction practices that are consistent with the California Title 8, Occupational Safety and Health Administration (Cal-OSHA) regulations, as well as CUPA remediation standards. This plan will ensure that, consistent with the Final EIR, any unanticipated encounter with hazardous substances would be handled by trained personnel consistent with applicable regulations and standards. Moreover, as discussed above, the requested amount of gradingfor the Site Plan is below the total grading volume that was analyzed in the Final EIR.

- The proposed modification to the Site Plan to allow additional grading would not cause new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As discussed above, the proposed grading within Los Angeles County is within the total grading amount contemplated in the Final EIR. While additional details are now known about the applicant's precise grading plans, these details do not materially change the scope or intensity of the project's grading impacts. Because the grading activities are consistent with those described in the Final EIR, there would be no material change in the type or number of vehicles needed for grading, the intensity of grading activities, or the amount of water that would be needed for fugitive dust control.

- To the extent that the off-site transport of excess grading material is considered a change from the originally approved project, this change is less than significant and would not cause any new significant environmental impacts. In evaluating the potential environmental impacts of this proposal, the agency's environmental assessment is limited to considering the incremental differences between the environmental impacts of the original project and the impacts of the proposed modification.(*Temecula Band of Luiseno Mission Indians v. Rancho California Water Dist.* (1996) 43 Cal.App.4th 425; *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467.) Here, the incremental differences would be less than significant. In particular, the air emissions associated with soil export haul trucks would be temporary and well below applicable thresholds for construction emissions. In

addition, although soil export haul trucks (up to 50 per day for 100 days) would utilize the existing local roadways, those roadways are operating well below capacity and this minor increase in truck trips would not cause any significant traffic impacts. Furthermore, even if the incremental environmental impacts associated with the haul trucks were considered together with the original project's environmental impacts, which is not required, the environmental impacts would still be insignificant.(See attached environmental analysis of air quality and traffic impacts.)



Sources: SunPower Corporation 2013 | Ecology and Environment 2013 | ESRI DataMaps 10, Service Layer Credits: Copyright © 2009 ESRI

I. Air Quality

1.1 Introduction

The Antelope Valley Solar Project, consist of two co-located solar photovoltaic projects (AVSP I and AVSP II) being constructed in Kern and Los Angeles Counties, California. The original grading plan for the portion of the AVSP I site located in Los Angeles County did not require fill material to be imported or exported. However, due to modifications to the original grading plan, haul trucks will now be used to export excess soil from the site.

The air pollutant and greenhouse gas (GHG) construction emissions analyses in the project's Environmental Impact Report (SCH# 2010031022) assessed emissions associated with grading at the site. However, the EIR did not specifically evaluate the emissions associated with haul trucks to export soil. The purpose of this assessment is to incorporate emissions generated from the use of soil export haul trucks into the emissions analyses.

1.2 Methodology and Assumptions

The EIR estimated construction emissions associated with the Antelope Valley Solar Project using the URBEMIS model. For consistency, this analysis also used the URBEMIS model. The details for the soil export used in the URBEMIS model run are outlined below:

- Total Amount of Soil to Export: 88,604 cubic yards (cy)
- Haul Truck Capacity: 18 cubic yards (cy)
- Schedule: January 2014 to May 2014
- Average Number of Days per Week (hauling): 5 days/week
- Total Number of Days (hauling): 100 days
- Average Round Trips per day (hauling): 49.2 trucks/day
- Round Trip Distance: 50 miles
- Vehicles Miles Traveled per Day: 2,461 miles/day

As indicated above, it is anticipated that the haul trucks would only operate during Calendar Year 2014. Therefore, emissions from haul trucks were estimated for 2014.

1.3 Air Pollutant Emissions

The estimated emission outputs calculated in the URBEMIS model for the additional haul trucks were added to the construction emission estimates included in Section 4.3 of the EIR and to the emissions estimates for the use of additional water trucks, which were provided to the Department of Regional Planning on December 6, 2012 in connection Los Angeles County's approval of a minor modification to Conditional Use Permit No. 201000071 on December 18, 2012. Air pollutant emissions are outlined in Table 1.

Table 1-1: Year 2014 Project Construction Emissions – Los Angeles County							
Year	**Parameter**	**VOC**	**NO_x**	**CO**	**PM_{10}**	**$PM_{2.5}$**	**SO_x**
2014	Current Emissions Estimate[1]	0.77	7.01	2.91	2.71	0.80	0.00
	Emissions Estimate – Excess Fill Haul Trucks	+0.17	+2.24	+0.80	+0.10	+0.08	+0.00
	Revised Emissions Estimate	**0.94**	**9.25**	**3.71**	**2.81**	**0.88**	**0.00**
AVAQMD Annual Threshold		25	25	100	15	15	25
Exceed Threshold?		***No***	***No***	***No***	***No***	***No***	***No***

Notes:

1. Includes original emission estimates in EIR (Table 4.3-5) and emission estimates from the use of additional water trucks incorporated in the previous CUP modification.

1.4 Greenhouse Gas Emissions

GHG emissions from soil export haul trucks were estimated using the URBEMIS model. The vast majority of GHGs from haul trucks are carbon dioxide (CO_2). The emission modeling indicates that 449 metric tons (495 tons) of GHG emissions would be generated from the soil export haul trucks. Annualized over a 30-year period, a conservative estimate of the life of the project, the annual GHG would be approximately 15 metric tons per year. This value adds only a small fraction to the annual GHG emissions of the project. In addition, as explained in Section 4.6 of the EIR, even with GHG emissions generated from project construction and operation, the project would have a highly positive impact on the reduction of GHGs because (1) the project provides an emissions-free source of electricity, which reduces the need for development of fossil-fuel-burning facilities; (2) the project displaces existing agricultural uses on the project site, which produce GHGs as a result of gas- and diesel-powered farming equipment and vehicles; and (3) the project and other similar to it, are important elements in achieving the state's Renewable Portfolio Standard goal of 33 percent electricity generated by renewable sources by 2020.

II. Traffic

2.1 Introduction

The Transportation and Traffic analysis in the project's previously certified EIR (SCH# 2010031022) assessed the current and anticipated peak hour volume/capacity ratios in order to determine the project's impact to various roadway segments that could be used during construction and operation of the proposed project. Although it was anticipated that various routes would be used to reach the project site, the EIR conservatively distributed100% of the project's vehicle traffic to each of the affected roadway segments during construction. For consistency, this analysis uses the same approach by applying 100% of the additional soil haulingtrips to each of the nearby major roadway segments.

This analysis also includes additional water hauling trips, which were assessed in connection with theminor modification to Conditional Use Permit No. 201000071that was approved by Los Angeles County on December 18,2012.These water hauling trucks would travel primarily from the Kern County portion of the Project site to the Los Angeles County portion of the project site, crossing Avenue A and would result in a total of 13 additional round trip truck trips in the Los Angeles County portion of the project site. These 13 trips have been included in this assessment along with the additional hauling as they are anticipated to occur simultaneously.

Assumptions

Assumptions in this analysis include:

- Additional Round Trips per day for soil export: 50[1]
- Total number of days (hauling): 100 days
- Average Number of Days per Week (hauling): 5 days/week
- Schedule: January 2014 to May 2014

There are two potential routes along which hauling could occur. Haul Route A would leave the site heading east along Avenue A to SR 14. Haul Route B would leave the site heading west on Avenue A, turn South onto 170th Street, and then head west on SR 138 to I-5 (See Figure 1). Although only one of these two haul routes would be used, this analysis assesses 100% impacts of the additional hauling trips to each of the major roadway segments during AM/PM peak hours. Any potential impacts to the existing pavement will be addressed through the Pavement Restoration Report prior to the completion of grading which is subject to the review/approval of the Los Angeles County Department of Public Works.

To maintain consistency with impact methodology in the previously certifiedEIR and to provide ahighly conservative impact assessment, this analysis assumes that all hauling trips would occur on each of the

[1]This number is rounded from 49.2 for the purposes of this traffic analysis and is based on 88,604 total cubic yards of soil exported from the project site, using export trucks with an average capacity of 18 CY.

major roadway segments analyzed in the certified EIR during AM and PM peak hours.[2]The previously certified EIR did not include an analysis of peak hour volume/capacity ratios for Avenue A; however, this assessment evaluates potential impacts to Avenue A, west of 90th Street. Because no peak hour volume/capacity estimates are available for Avenue A, this analysis uses the conservative estimate that the current peak hour is approximately 10% of the AADT. This assessment also assumes that the water hauling trips would occur concurrently with the soil export trips.

2.3 Impact Assessment

Based on revisions to the original grading plan in the Los Angeles County portion of the AVSP I Project site, the project anticipates that 50 hauling trucks will be needed to export soil from the sitefor 100 days during construction. It is anticipated that hauling operations would begin in January 2014 and end in May 2014. As mentioned previously, for consistency and to be conservative, this analysis assesses 100% impacts of the additional hauling trips to each of the major roadways segments analyzed in the original EIR during AM/PM Peak hours. Anticipated impacts to Avenue A include the 13 additional water truck trips that were assessed in connection with the minor modification to Conditional Use Permit No. 201000071that wasapproved by Los Angeles County on December 18,2012. Table 2-1 shows the current peak hour trips and roadway capacity and calculates the net volume to capacity change for each major roadway segment that would occur due to the additional hauling trips.

[2] This assessment is highly conservative because, among other reasons, it is anticipated that hauling trips would not occur simultaneously during peak hours, but rather they would be distributed throughout the day.

Table 2-1: Average Annual Daily Traffic and Peak-Hour Traffic + Project

Roadway	AADT	Current Peak Hour	Project Trips (3)	Construction Period Peak Hour (4)	Additional Haul Trips	Const. + Additional Haul Trips	Capacity	Current Peak Hour V/C	Construction Period Peak Hour V/C	Construction + New Haul Trips V/C	Net change Volume/ Capacity
170th Street West	1,274[1]	90[1]	338	428	50	478	3,200	0.03	0.13	0.15	0.02
Rosamond Blvd[6]	1,889[1]	196[1]	338	534	50	584	3,200	0.06	0.17	0.18	0.01
SR 14	33,500[1]	3,250[1]	338	3,588	50	3,638	8,800	0.37	0.41	0.41	0.00
SR 14	35,000[1]	3,400[1]	338	3,738	50	3,788	8,800	0.39	0.42	0.43	0.01
SR 138	2,950[1]	500[1]	338	838	50	888	3,200	0.16	0.26	0.28	0.02
Avenue A	390	39 [5]	351[2]	390	50	440	9,600*	0.04	0.04	0.04	0.00

Notes:

1) Source – Kern County Planning and Community Development Department, 2011
2) Includes anticipated peak hour traffic counts of 338, as analyzed in Section 4.10 of the previously certified EIR, plus 13 water truck trips associated with additional water truck hauling from the Kern County portion of the project site to the Los Angeles County portion of the project sit, approved under the previous minor modification to the CUP.
3) Represents peak hour vehicle trips identified in the Previous EIR
4) Represents the sum of Current Peak Hour + Construction Peak Hour Trips.
5) Represents estimated Peak Hour as 10% of AADT. This is a conservative estimate based on segments for roads with a similar classification in this area, including other roads analyzed in this report, which had peak hour AADT's between approximately 7% and 10%.
6) Rosamond Boulevard was included in this table in order to maintain consistency with the certified EIR. However, haul trucks are not anticipated to be used on Rosamond Boulevard.

V/C = Volume/Capacity Ratio.

Sources: Kern County Planning and Community Development Department, 2011; *Gomez, 2013

2.4 Conclusion

As shown in Table 2-1, additional hauling trips for the export of soil from the project site would not result in a substantial change in volume/capacity ratio on any of the affected roadway segments. Based on the significance criteria listed in the project's EIR, construction traffic with the addition of these haul trucks would result in a less-than-significant impact to area roadways for the following reasons:

- This minor increase (0.02 or less at each roadway segment) in peak volume/capacity ratio would be temporary, occurring no more than 100 days in total; and
- Existing roadway traffic levels are generally very low, allowing temporary increases in traffic associated with additional dirt hauling trips to have a de minimis impact on volume/capacity ratios.

III. References

Gomez, Al. 2013. Phone call with Al Garcia, Traffic Engineer, Kern County Roads Department. October 8, 2013.

Kern County Department of Planning and Community Development. 2011. Environmental Impact Report for the Antelope Valley Solar Project. Accessed October 8, 2013.